IN THE HIGH COURT OF PUNJAB & HARYANA CHANDIGARH

Criminal Revision No.207 OF 1994
Date of Decision: JULY 17, 2007

DHANPAT

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE A.N.JINDAL

Present: Mr.Baljinder Singh,Advocate as amicus curiae.

Mr. K.S.Godara,DAG, Haryana.

A.N.JINDAL, J

Dhanpat accused-petitioner (hereinafter referred as the 'petitioner') was slapped with a sentence of one year and fine of Rs.500/- under Section 326 IPC and simple imprisonment of 2 months under Section 323 IPC by the Court of Judicial Magistrate 1st Class, Sonepat vide his judgment dated 28.03.1992. The appeal preferred by Dhanpat was also dismissed by the Additional Sessions Judge, Sonepat on 14.02.1994. Hence this petition.

Allegations against the petitioner are that on 11.10.1986 at about 9AM when Chander Bhan(PW5) was filling foundation of his plot in the presence of Siri Chand and Singh Ram PWS, the petitioner armed with kassi came there and inflicted 3

injuries on the person of Chander Bhan which have been described by Dr. Bhupesh Chaudhary(PW2) as under:-

1. Incised wound 4 cms involving, the tip of nose and left ala and extending up to the left ala. There was a scalp involving left ala and tip of the wound as these parts were cut through and through with its base attached to the lower and of septum of nose. Margines of wound were sharp, certilage of nasal septum were also cut. Bleeding was present.

2. Incised wound 1.5 x 0.25 cms deep over right side of face, one c.m below the lateral canthus of right eye wound was going downward to the right, margines of wound were sharp.

3. Abrasion 1cm. x 2 cms over medial side of right forearm, 2 cms. above the wrist joint. Colour was radish pink. Advised X-ray nosal bone.

On the statement of Chander Bhan, FIR No.177 dated 11.10.1986, case was registered at police station Ganaur. Completion of investigation was followed by a report under Section 173 Cr.P.C.

Charge under Sections 323 and 326 IPC was framed against the petitioner on 16.01.1987 which was denied by the petitioner. In order to substantiate the allegations, the prosecution examined Dr.K.K.Dua (PW1), Dr. Bhupesh Chaudhary

(PW2), Siri Chand(PW3), Singh Ram(PW4) and Chander Bhan (PW5), Man Singh,Sub Inspector appeared as PW6. Ultimately the trial ended in conviction and the appeal was also dismissed.

At the very outset, counsel for the petitioner has not assailed the prosecution version but has sought indulgence of this Court to extend some leniency to the petitioner. He has urged that out of the three injuries only one injury of nose is grievous in nature which could hardly be the result of a kassi but still without contesting the injury, he has pleaded that the conviction was ordered by the Judicial Magistrate in the Year 1992 and much water has flowed since then. During the pendency of the proceedings since the year 1992, he has not committed any offence and the petitioner is ready to compensate the injured.

Having deliberated over the contentions, it would be expedient to observe that the petitioner has already suffered a lot due to the longevity of the proceedings which commenced in the year 1992. The petitioner has a big family consisting of seven minor children. He is neither a previous convict nor he has committed any offence during the pendency of this petition. As such it would not be expedient in the interest of Justice to send him to imprisonment at this stage, however, the complainant can be adequately compensated for the injuries suffered by him.

In the result, this petition being devoid of merit is hereby dismissed with the modification in the sentence to the effect that the sentence awarded against the accused is reduced to already undergone without alteration in the sentence of fine, however, he will pay a sum of Rs.15000/- on account of compensation to the injured within 3 months

from today failing which this petition would be treated as dismissed.

The amicus curiae is directed to inform the petitioner accordingly and he shall claim remuneration from the concerned legal authority as per rules.

(A.N.JINDAL)
JUDGE

July 17,2007
Ruchika

To be referred to Reporter: Yes/No